IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.846 OF 2006

Shri Pant Vastrodyog
Sanstha Limited .. Petitioner.

V/s.

Union of India & Others .. Respondents.

Mr.M.H. Patil for the petitioner.

Mr.H.V. Mehta for the respondents.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 16TH MARCH, 2006.

P.C. :

Heard Mr.M.H. Patil, the learned counsel for the petitioner.

2. The application for waiver of pre-deposit made by the petitioner was initially disposed of by the Customs, Excise and Service Tax Appellate Tribunal on 7th October, 2005 directing the petitioner to deposit an amount of Rs.40,00,000/- to meet the requirement of Section 35F of the Central Excise Act, 1944.

3. The petitioner did not comply with the order dated 7th October, 2005 and instead made an application seeking modification of the order dated

7th October, 2005 on the grounds that, (1) the demand was entirely barred by limitation and (2) the petitioner was not guilty of any misdeclaration or suppression of facts about their proprietary interest in the weaving unit.

4. The Tribunal was not persuaded by the aforesaid grounds and dismissed the application seeking modification of the order dated 7th October, 2005 by the order dated 10th January, 2006.

5. The learned counsel for the petitioner reiterated the grounds that were raised before the Tribunal seeking waiver of pre-deposit.

6. Having considered the matter, we are of the view that the order of the Tribunal is rather too considerate and sympathetic in favour of the petitioner directing the petitioners to deposit only a sum of Rs.40,00,000/- out of total demand of Rs.2 crores. Prima-facie view of the Tribunal that the demand is not barred by limitation and that the petitioner misdeclared the fact that it does not have proprietary interest in the weaving unit does not seem to be without any basis.

7. The writ petition does not deserve to be

admitted. Dismissed in limine.

8. The interim order is vacated as the writ petition stands dismissed.

9. By making it clear that no further extension shall be granted by this court, only by way of indulgence, we grant time of two weeks from today to the petitioners, to deposit a sum of Rs.40,00,000/- with the Tribunal failing which the appeal before the Tribunal shall stand dismissed.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)